NOTICE
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2013 IL App (4th) 130627-U

NO. 4-13-0627

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
November 1, 2013
Carla Bender
4th District Appellate
Court, IL

In re: A.N., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Champaign County
v.	)	No. 13J2
SHALONDA BRUMFIELD,	)	
Respondent-Appellant.	)	Honorable
	)	Richard P. Klaus,
	)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Justices Knecht and Turner concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, holding the trial court's finding of unfitness was not against the manifest weight of the evidence.

¶ 2 In July 2013, following a dispositional hearing, the trial court found respondent, Shalonda Brumfield, unfit and unable to care for her minor son, A.N. (born Jan. 13, 2000). The court made A.N. a ward of the court and granted guardianship to the Department of Children and Family Services (DCFS).

¶ 3 Respondent appeals, asserting the trial court erred in finding her unfit. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In April 2013, the State filed a petition for adjudication of dependency alleging A.N. was dependent because he was "without proper care necessary for his well-being through no

fault, neglect, or lack of concern by his parent, guardian, or custodian" pursuant to section 2-4(1)(c) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-4(1)(c) (West 2012)). In June 2013, respondent stipulated to the petition.

¶ 6 Prior to the July 2013 dispositional hearing, DCFS filed a dispositional report. The report explained the case arose from A.N.'s refusal to return to respondent's home following a stay in juvenile detention arising from an incident in which he allegedly battered respondent. A.N. reported respondent used cannabis within the home and left the cannabis accessible to respondent's five-year-old child. A.N. also alleged respondent stole money from him and that there was violence in the home. Not only had A.N. been charged with battering respondent on three occasions, but A.N.'s brother, D.N., reported previously battering respondent and, in retaliation, respondent's boyfriend had battered D.N. Additionally, A.N. reported respondent frequently yelled at and insulted him. Though DCFS deemed as unfounded all of A.N.'s claims against respondent, DCFS recommended alternative placement in order to protect respondent and other members of the household from A.N.

¶ 7 The dispositional report indicated, during the pendency of the case, A.N. transferred from the juvenile detention center to Webster-Cantrell Hall, a child welfare agency, in Decatur, Illinois. Despite A.N.'s history of aggressive behavior while in school, he had not exhibited aggressive behavior so far at Webster-Cantrell Hall. A.N. was hospitalized on multiple occasions in the past due to his aggressive behavior, homicidal statements, and self-harming actions.

¶ 8 The dispositional report also noted respondent had dealings with DCFS as a minor that left her suspicious and distrustful of the foster care system. A home inspection revealed

respondent's home was safe and free from visible safety hazards. Respondent reported regular marijuana usage, testing positive three times since DCFS became involved in the case; however, those numbers had been steadily decreasing since April 2013. In June 2013, DCFS referred respondent for a substance abuse assessment, but she had not yet been assessed for treatment options by July. She was also referred for random drug screens and individual counseling to address her concerns about A.N., her involvement with DCFS, and coping skills. Respondent described her method of discipline as removing privileges or sending her children into "time out" and emphasized the importance of being a parent, not a friend, to her children. The single visit respondent had with A.N. prior to the dispositional hearing ended with a verbal altercation and respondent saying she could not deal with A.N.'s attitude.

¶ 9 Ultimately, DCFS expressed concern over A.N.'s aggression toward respondent and recommended the trial court grant guardianship of A.N. to DCFS and order respondent to cooperate with DCFS and any recommended services.

¶ 10 At the July 2013 dispositional hearing, the parties presented no additional evidence beyond that contained in the dispositional report and its addendums. The State asked the trial court to find respondent unable to care for A.N., and the guardian *ad litem* concurred with the State's position. Respondent's counsel asked the court to find respondent fit but unable to parent A.N. After listening to arguments from the parties, the court found respondent was both unfit and unable to care for A.N. and that the best interests of A.N. would be in jeopardy if he remained in the home. In reaching its decision, the court highlighted A.N.'s history of aggression toward respondent and hospitalizations for behavioral issues. Moreover, the court found respondent engaged in habitual cannabis use. The court also incorporated the reports and

other evidence entered at the shelter care and adjudicatory hearings into its findings. The court then adjudicated A.N. as dependent and determined it was in the best interests of A.N. to grant DCFS guardianship.

¶ 11 This appeal followed.

¶ 12 II. ANALYSIS

¶ 13 On appeal, respondent asserts the trial court erred in finding her unfit. At the dispositional stage, the court must determine whether the State has established, by a preponderance of the evidence, that the respondent parent is unfit, unable, or unwilling to parent the child. *In re Stephen K.*, 373 Ill. App. 3d 7, 25, 867 N.E.2d 81, 98 (2007). We will not overturn the court's finding of unfitness unless it was against the manifest weight of the evidence. *In re S.W.*, 342 Ill. App. 3d 445, 450, 794 N.E.2d 1037, 1041 (2003). A finding is against the manifest weight of the evidence when the record clearly demonstrates the opposite conclusion to be appropriate. *Id.*

¶ 14 We begin by noting respondent cites no case law and little argument in support of her position. "Without facts in the record to support arguments raised in the instant appeal, such arguments amount to no more than bare contentions, which do not merit consideration and are deemed forfeited." *People v. Edwards*, 2012 IL App (1st) 091651, ¶ 29, 966 N.E.2d 417.

¶ 15 Even assuming, *arguendo*, that respondent produced the bare minimum necessary to overcome forfeiture, we would nonetheless conclude respondent's argument is moot. A case is considered moot when no actual controversy exists, meaning the reviewing court's decision would have no practical effect on the parties or proceedings. *In re Lakita B.*, 297 Ill. App. 3d 985, 992, 697 N.E.2d 830, 835 (1998).

¶ 16 In this case, respondent challenges only the trial court's unfitness finding, conceding the evidence supported the court's finding that respondent was unable to care for A.N. Section 2-27 of the Juvenile Court Act provides,

> "If the court determines and puts in writing the factual basis supporting the determination of whether the parents, guardian, or legal custodian of a minor adjudged a ward of the court are unfit *or* are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor *or* are unwilling to do so, and that the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of his or her parents, guardian or custodian, the court may at this hearing and at any later point" grant guardianship to DCFS. (Emphases added.) 705 ILCS 405/2-27(1)(d) (West 2012).

In other words, the court may choose from any of three alternatives—unfit, unable, or unwilling—in deciding whether to make the minors wards of the court. *Lakita B.*, 297 Ill. App. 3d at 992, 697 N.E.2d at 835. Proof of all three alternatives is not necessary to the court's finding; proof of one is sufficient. *Lakita B.*, 297 Ill. App. 3d at 992-93, 697 N.E.2d at 835. Because the trial court found respondent unable, an issue respondent conceded both in the trial court and on appeal, the case would have moved to the next stage of proceedings—the wardship and guardianship of A.N.—whether or not the court found respondent unfit. Thus, this court's decision would have no practical effect on the parties or proceedings. Respondent did not file a reply brief addressing whether any exceptions to the mootness doctrine apply in this case and, as

a result, we decline to address the possible exceptions here. Therefore, because respondent concedes she was unable to parent A.N., we conclude the court's finding that she was unfit is moot.

¶ 17 Regardless, even if this issue was not moot, respondent's argument fails on the merits. First, respondent argues the trial court erred in finding respondent unfit because the State failed to allege respondent was unfit in the petition. However, this court has previously held that failure to include an allegation of unfitness within the petition does not preclude the court from entering a finding of unfitness under the appropriate factual circumstances. *In re T.B.*, 215 Ill. App. 3d 1059, 1061, 574 N.E.2d 893, 895 (1991). Also, like in *T.B.*, the prayer for relief in the petition in this matter asked the court to enter appropriate findings regarding fitness, willingness, and ability of the parent to care for, protect, train, or discipline the minor. Moreover, parties are placed on notice of the potential outcomes of a dispositional hearing in section 2-27 of the Juvenile Court Act—that the court could find the parents unfit, unable, or unwilling to care for the minor children. 705 ILCS 405/2-27(1) (West 2012).

¶ 18 The evidence adduced at the hearing and contained within DCFS reports relied upon by the court indicated (1) A.N., A.N.'s brother, and respondent's boyfriend engaged in violence in respondent's home; (2) respondent habitually used cannabis in the home; and (3) respondent had yet to begin individual and substance abuse counseling to aid in the reunification of the family. The evidence presented in this case is sufficient to support the court's finding of unfitness, as the record does not clearly demonstrate the opposite conclusion is proper. See *In re M.B.*, 332 Ill. App. 3d 996, 1004, 773 N.E.2d 1204, 1210-11 (2002). Therefore, we conclude the court's finding of unfitness was not against the manifest weight of the evidence.

¶ 19 III. CONCLUSION

¶ 20 For the foregoing reasons, we affirm the trial court's judgment.

¶ 21 Affirmed.